

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

GEORGE T. FRANKLIN,

Petitioner,

:

Case No. 1:95-cv-1007

- vs -

District Judge Walter Herbert Rice
Chief Magistrate Judge Michael R. Merz

CARL S. ANDERSON, Warden,

Respondent.

:

REPORT AND RECOMMENDATIONS

On January 11, 2007, pursuant to the Mandate of the United States Court of Appeals for the Sixth Circuit, this Court issued a final Writ of Habeas Corpus Ad Subjiciendum commanding Warden Marc Houk, Petitioner's custodian, to release Petitioner from custody "unless the State of Ohio has re-tried Petitioner's aggravated murder case not later than July 10, 2007, and he has thereupon again been sentenced"(Doc. No. 143 at 2).

Examination of the docket of the Hamilton County Common Pleas Court in this matter (*State v. Franklin*, Case No. B-884127; available at the Hamilton County Clerk of Court's website) shows that the case was reopened, but that the parties reached a plea agreement. Under that agreement (copy attached), Petitioner pled guilty to one count of aggravated murder with a capital specification and two counts of aggravated burglary. The three-judge panel, on stipulation of the parties, determined that the aggravating circumstances did not outweigh the factors presented in mitigation and sentenced Petitioner on the aggravated murder count to life imprisonment with parole eligibility

at thirty years, plus two consecutive ten-year terms for the aggravated burglaries.

Because the judgment of the Hamilton County Common Pleas Court satisfies the condition in this Court's Writ, it is respectfully recommended that the Writ be dissolved and this case terminated on the docket.

April 30, 2007.

s/ **Michael R. Merz**
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).